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P-3906-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: DONALD C. JOHNSON
JEFFREY SPILFOGEL

FOR: A SEAMLESS BRASSIERE SHOULDER STRAP

SERIAL NO.: 09/780,320

FILED: February 12, 2001

EXAMINER: JOHN CALVERT

5-13-01
8/15
RECEIVED

REPLY

AUG 1 5 2001
TECHNOLOGY CENTER R3700

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

This is in reply to the Final Rejection of the Office Action of 08/06/01.

More particularly, this reply is intended to cure the claim rejection under 35 U.S.C. 112, second paragraph, made for the first time in paragraph 2 of the Office Action, and to which rejection applicant has not had an opportunity to respond to.

Please amend claim 1 as follows:

in line 3, after "other" insert --characterized by opposite edges extending lengthwise of said elongated strips and oriented in parallel relation to each other and

in line 4, after "strip" insert --as a work-in-process--;

in line 7, after "strip" insert --as a work-in-process--;

in line 10, after "said" insert --work-in-process--; and

in line 12, after "and" insert --after said fusing said superposed upper, lower and intermediate fabric strips converted into said seamless shoulder strap of a brassiere by the removal--; delete "removed", and after "site" insert --of said raw edges--;

Accompanying this reply is a marked up version of claim 1 and a clean copy thereof.

It is earnestly believed that claim 1, as amended, now recites the metes and bounds of the patent protection desired. While the claim has reference to method steps in forming the strap, i.e., positioning by superposing, fusing and cutting, reference to conditions in the unfinished strap, i.e. work-in-process raw cut edges, and reference to conditions in the finished strap, i.e., raw cut edges removed by cutting, these reference are not prohibited. In this regard, it is instructive in making of record that as provided in MPEP 2173.01 CLAIM TERMINOLOGY:

"A fundamental principal contained in 35 U.S.C. 112, second paragraph is that applicant's are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as the terms are not used in ways that are contrary to accepted meanings in the art. Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought."

Reconsideration of the rejection of claim 1 under 35 U.S.C. 102(b) as being anticipated by Hyams et al. is respectfully requested for the reasons which follow.

What is referred to in Hyams et al. at column 2, lines 10-16 and lines 32-39 is the pad 12, but the component in this cited reference most pertinent to the strap in issue is that designated 16 and referred to as "tab portions" in column 3, in line 15. For the examiner's convenient reference, it is set forth below:

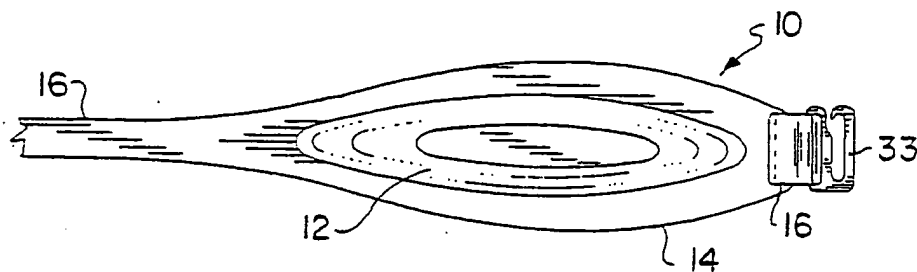


FIG. 1B

Component 16 does not anticipate the recitations of claim 1 either as to the unfinished work-in-process or finished conditions, and clearly the different widths of the length portions of 16 and 12 of the integral strap 10 would prohibit cutting lengthwise, i.e., along a straight line, to effectuate any removal of selvage that would obviate a raw cut edge appearance.

It is believed that claim 1, as amended, is allowable over Hyams et al. or, if not allowable, presents claim 1 in condition which has simplified the issues for appeal.

Favorable reconsideration of this application is respectfully requested.

Respectfully,

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Dated: August 9, 2001

B1
--1. A seamless shoulder strap of a brassiere comprising a superposed cooperating pair of an upper and of a lower elongated strip of fabric construction material in facing relation to each other characterized by opposite edges extending lengthwise of said elongated strips and oriented in parallel relation to each other and bounding therebetween a correspondingly elongated internal compartment, each said strip as a work-in-process having cut raw edges therealong delimiting therebetween a selected first transverse dimension, an intermediate strip of thermoplastic fibrous material having an interposed operative position disposed lengthwise in said internal compartment, said intermediate strip as a work-in-process having cut raw edges therealong delimiting therebetween a selected transverse dimension slightly in excess of said first transverse dimension of said upper and lower fabric strips, said size differences of said first and second transverse dimensions presenting in superposed relation said work-in-process cut raw edges of said upper, lower and intermediate fabric strips which are fused along a selected site together and after said fusing said superposed upper, lower and intermediate fabric strips converted into said seamless shoulder strap of a brassiere by the removal [removed] by cutting along said site of said raw edges, whereby appearances of cut raw edges of said upper, lower and intermediate strips are obviated in the resulting shoulder strap.--(second amendment)

B1
--1. A seamless shoulder strap of a brassiere comprising a superposed cooperating pair of an upper and of a lower elongated strip of fabric construction material in facing relation to each other characterized by opposite edges extending lengthwise of said elongated strips and oriented in parallel relation to each other and bounding therebetween a correspondingly elongated internal compartment, each said strip as a work-in-process having cut raw edges therealong delimiting therebetween a selected first transverse dimension, an intermediate strip of thermoplastic fibrous material having an interposed operative position disposed lengthwise in said internal compartment, said intermediate strip as a work-in-process having cut raw edges therealong delimiting therebetween a selected transverse dimension slightly in excess of said first transverse dimension of said upper and lower fabric strips, said size differences of said first and second transverse dimensions presenting in superposed relation said work-in-process cut raw edges of said upper, lower and intermediate fabric strips which are fused along a selected site together and after said fusing said superposed upper, lower and intermediate fabric strips converted into said seamless shoulder strap of a brassiere by the removal by cutting along said site of said raw edges, whereby appearances of cut raw edges of said upper, lower and intermediate strips are obviated in the resulting shoulder strap.--(second amendment)